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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JASON ANDREW GWARTNEY,

Defendant and Appellant.

B266693

(Los Angeles County
Super. Ct. No. MA064895)

APPEAL from an order of the Superior Court of Los Angeles County, Christopher Estes, Judge. Affirmed.

Ann-Marissa Cook, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

An information filed January 23, 2015 charged Jason Andrew Gwartney with one felony count of grand theft of personal property (“STIHL MS260 PRO CHAINSAWS”) with a value of more than \$950, in violation of Penal Code section 487, subdivision (a).¹ Gwartney pleaded nolo contendere on April 14, 2015, and pursuant to a plea agreement, the trial court sentenced him to two years in county jail and fees and fines, including \$300 in restitution to the victim.

On July 10, 2015, Gwartney’s counsel filed a petition for resentencing under section 1170.18, subdivisions (a) and (f) on the ground that section 487 had been reclassified as a misdemeanor. At a hearing on July 29, 2015, counsel argued that the victim sustained a loss of under \$950, as the victim received only “a couple of hundred dollars” in restitution. The prosecutor stated that the file showed the theft involved two chainsaws, valued at \$1,000 each. The chainsaws were pawned and the victim paid \$300 to get the chainsaws back, so that the restitution was for the \$300 and not for the value of the items stolen. The trial court found, based on the charging document, the arguments of the parties, and the information from the prosecutor, that the value of the items Gwartney stole was over \$950, and “the defendant does not qualify for relief under Prop. 47.” The trial court denied the petition for resentencing. A timely appeal followed.

We appointed counsel to represent Gwartney on appeal. After examining the record, counsel filed an opening brief raising no issues and asking this court to review the record independently. On February 2, 2016, we advised Gwartney he had 30 days within which to personally submit any contentions or issues he wished us to consider. To date, we have received no response.

Section 490.2, subdivision (a) provides that obtaining property by theft where the value of the property taken does not exceed \$950 shall be considered petty theft and shall be punished as a misdemeanor. This section does not apply to Gwartney’s theft of the chainsaws, as their value exceeded \$950.

¹ All subsequent statutory references are to the Penal Code.

We have examined the entire record and are satisfied that Gwartney's counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109—110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The order is affirmed.

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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

LUI, J.